

AMENDED IN SENATE MAY 13, 2004

AMENDED IN SENATE APRIL 26, 2004

AMENDED IN SENATE APRIL 12, 2004

**SENATE BILL**

**No. 1462**

**Introduced by Senator Kuehl**

February 19, 2004

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~~An act to amend Section 65040.9 of the Government Code, to amend Sections 21080.1, 21080.4, 21091, and 21152 of, and to add Sections 21068.1 and 21109 to, the Public Resources Code, relating to environmental quality, and making an appropriation therefor. An act to amend Sections 65352, 65404, 65940, and 65944 of the Government Code, relating to land use.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, as amended, Kuehl. ~~Environmental quality: notices: United States military—Military readiness activities: special use airspace.~~

The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would define the term “special-use air space” for purposes of the act.

CEQA requires the lead agency to be responsible for determining whether an environmental impact report, a negative declaration, or a

~~mitigated negative declaration shall be required for any project that is subject to the act.~~

~~This bill would require all documents prepared pursuant to those provisions of the act for projects located beneath special use air space, as defined, to be transmitted to all branches of the United States military that have provided a single mailing address within the state to receive those documents. The bill would require the lead agency, in the case of a project defined for purposes of the act, upon the request of any branch of the United States military, to provide for consultation prior to the filing of an application regarding the range of actions, potential alternatives, mitigation measures, and any potential and significant effects on the environment of the project.~~

~~CEQA requires a lead agency, if it determines that an environmental impact report is required for a project, to immediately send notice of that determination by certified mail or an equivalent procedure to each responsible agency, the Office of Planning and Research, and those public agencies having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California.~~

~~This bill would require the Office of Planning and Research to transmit all of those notices of preparation to the branches of the United States military that have provided a single mailing address within the state to receive those notices.~~

~~CEQA prescribes specified review periods for draft environmental impact reports, proposed negative declarations, and proposed mitigated negative declarations.~~

~~This bill would authorize a branch of the United States military or a lead agency, during those public review periods established by the act, to request that the Director of the Office of Planning and Research arrange for nonbinding mediation of any matters of concern to the military in connection with those reviews, as provided. The bill would also require that certain notices required to be provided under the act be transmitted to the branches of the United States military, as provided. By imposing new duties on local agencies with respect to the provision of information regarding projects subject to the act, the bill would impose a state-mandated local program.~~

~~The~~

~~(1) *The Planning and Zoning Law requires the planning agency prior to action by a legislative body of a city or county to adopt or substantially amend a general plan, to refer the proposed action to*~~



*specified entities, including, among other entities, any elementary, high school, or unified school district within the area covered by the proposed action and any areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.*

*The bill would include among those entities the branches of the United States Armed Forces when the proposed action lies within military special use airspace or a low-level flight path and would require the Governor, on or before January 1, 2005, to develop processes to resolve conflicts between the military, a local agency, or a project applicant when the proposed project may have the potential to adversely affect military readiness activities.*

*(2) The Planning and Zoning Law also requires each state agency and each local agency to compile one or more lists that specify in detail the information required from a project applicant as part of its statement of application for a development project and requires that copies of this information be made available to all project applicants and to any person who requests the information.*

*The bill would also revise the information required in the application by the project applicant when the proposed project is located adjacent to a military facility or within special use airspace and would require the public agency to provide a copy of the complete application to any branch of the United States Armed Forces, as specified. The bill would authorize any branch of the United States Armed Forces to request consultation with the public agency or the project applicant and would provide that the provisions referred to in this paragraph are not required until the Department of Defense provides maps that identify military installations and special use airspace at a 1:400:000 scale. By increasing the duties of local public officials, the bill would impose a state-mandated local program.*

*The bill would also require the Office of Planning and Research, within 30 days of the receipt of the maps, to notify cities, counties, and cities and counties of the availability of these maps and the descriptions of special use airspace on the Internet.*

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*



~~Existing law required the Office of Planning and Research, on or before January 1, 2004, if sufficient federal funds became available for that purpose, to prepare and publish an advisory planning handbook for use by local officials, planners, and builders that explains how to reduce land use conflicts between the effects of civilian development and military readiness activities carried out on military installations, military operating areas, military training areas, military training routes, and military airspace, and other territory adjacent to those installations and areas.~~

~~This bill would appropriate \$200,000 from the General Fund to the Office of Planning and Research to complete that handbook.~~

Vote: ~~2/3~~ majority. Appropriation: ~~yes~~ no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1.~~ (a) ~~The Legislature finds and declares all of the~~  
2     SECTION 1. (a) *The Legislature finds and declares all of the*  
3     *following:*  
4     (1) *Military bases and their mission are important to the*  
5     *California economy.*  
6     (2) *The military needs special use airspace to train effectively.*  
7     (3) *The development of civilian land uses may impair the*  
8     *military's ability to train.*  
9     (4) *Creating a process to identify and assist in resolving*  
10    *potential conflicts between land uses and the military's need for*  
11    *special use airspace is essential to California's public health,*  
12    *safety, and welfare.*  
13    (b) *Accordingly, the Legislature finds and declares that it is the*  
14    *policy of the state to cooperate with the military to do all of the*  
15    *following:*  
16    (1) *Consider the effects of civilian land uses that may be*  
17    *incompatible with the military's use of its assets.*  
18    (2) *Create processes to resolve conflicts between civilian land*  
19    *uses and the military's use of its assets.*  
20    SEC. 2. *Section 65352 of the Government Code is amended to*  
21    *read:*  
22    65352. (a) *Prior to action by a legislative body to adopt or*  
23    *substantially amend a general plan, the planning agency shall refer*  
24    *the proposed action to all of the following entities:*

(1) Any city or county, within or abutting the area covered by the proposal, and any special district that may be significantly affected by the proposed action, as determined by the planning agency.

(2) Any elementary, high school, or unified school district within the area covered by the proposed action.

(3) The local agency formation commission.

(4) Any areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

(5) Any federal agency if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.

(6) *The branches of the United States Armed Forces that are in compliance with Section 65944 when the proposed action lies within military special use airspace or a low-level flight path as defined in Section 21098 of the Public Resources Code.*

(7) Any public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65352.5.

~~(7)–~~

(8) The Bay Area Air Quality Management District for a proposed action within the boundaries of the district.

(b) Each entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified by the planning agency.

(c) (1) This section is directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted.

(2) To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

SEC. 3. *Section 65404 of the Government Code is amended to read:*

1 65404. (a) On or before January 1, 2005, the Governor shall  
2 develop ~~conflict resolution~~ processes to do all of the following:

3 (1) Resolve conflicting requirements of two or more state  
4 agencies for a local plan, permit, or development project.

5 (2) Resolve conflicts between state functional plans.

6 (3) Resolve conflicts between state infrastructure projects.

7 (4) *Provide for mediation between the military, a local agency,*  
8 *or a project applicant, when a proposed project may have the*  
9 *potential to adversely affect military readiness activities as defined*  
10 *in subdivision (a) of Section 65302.*

11 (b) The ~~conflict resolution~~ process may be requested by a local  
12 agency, project applicant, or one or more state agencies. *The*  
13 *mediation process identified in paragraph (4) of subdivision (a)*  
14 *may also be requested by a branch of the United States Armed*  
15 *Forces.*

16 SEC. 4. Section 65940 of the Government Code is amended to  
17 read:

18 65940. (a) Each state agency and each local agency shall  
19 compile one or more lists ~~which that~~ shall specify in detail the  
20 information that will be required from any applicant for a  
21 development project. ~~The list or lists may include the consolidated~~  
22 ~~project information form developed pursuant to Section 65946.~~  
23 Each local agency shall revise the list of information required from  
24 an applicant to include a certification of compliance with Section  
25 65962.5, and the statement of application required by Section  
26 65943.

27 (b) *The list of information required from any applicant shall*  
28 *include identification of whether the proposed project is located*  
29 *adjacent to a military facility, within special use airspace, as*  
30 *defined in subdivision (a) of Section 21098 of the Public Resources*  
31 *Code, and within an urbanized area, as defined in Section 65944.*  
32 *A city, county, or city and county that is not within special use*  
33 *airspace or whose entire jurisdiction is within an urbanized area*  
34 *as defined in Section 65944, is not required to identify whether a*  
35 *project is within special use airspace.*

36 (c) Copies of the information, including the statement of  
37 application required by Section 65943, shall be made available to  
38 all applicants for development projects and to any person who  
39 requests the information.

(d) (1) Subdivision (b) of this section as it relates to special use airspace and urbanized areas shall not be required until the United States Department of Defense provides maps that identify military installations and special use airspace at a 1:400:000 scale.

(2) Within 30 days of receipt of the maps, the Office of Planning and Research shall notify cities, counties, and cities and counties of the availability of these maps as well as the availability of the descriptions of special use airspace on the Internet.

SEC. 5. Section 65944 of the Government Code is amended to read:

65944. (a) After a public agency accepts an application as complete, the agency shall not subsequently request of an applicant any new or additional information which was not specified in the list prepared pursuant to Section 65940. The agency may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.

(b) The provisions of subdivision (a) shall not be construed as requiring an applicant to submit with his or her initial application the entirety of the information which a public agency may require in order to take final action on the application. Prior to accepting an application, each public agency shall inform the applicant of any information included in the list prepared pursuant to Section 65940 which will subsequently be required from the applicant in order to complete final action on the application.

(c) This section shall not be construed as limiting the ability of a public agency to request and obtain information which may be needed in order to comply with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) After a public agency accepts an application as complete, and if the project applicant has identified that the proposed project is located adjacent to a military facility or within special use airspace in accordance with Section 65940, the public agency shall provide a copy of the complete application to any branch of the United States Armed Forces that has provided the Office of Planning and Research with a single California mailing address within the state for the delivery of a copy of these applications.

(e) The public agency is not required to provide a copy of the application if the project is located in an "urbanized area." An urbanized area is any urban location that meets the definition used



1 *by the United State Department of Commerce's Bureau of Census*  
2 *for "urban" and includes locations with core census block groups*  
3 *containing at least 1,000 people per square mile and surrounding*  
4 *census block groups containing at least 500 people per square*  
5 *mile.*

6 *(f) Upon receipt of a copy of the application as required in*  
7 *subdivision (d), any branch of the United States Armed Forces may*  
8 *request consultation with the public agency or the project*  
9 *applicant to discuss the potential effects of the proposed project on*  
10 *military facilities or special use airspace, including the potential*  
11 *alternatives, mitigation measures, and any potential and*  
12 *significant effects on the environment that may be caused by the*  
13 *project.*

14 *(g) (1) Subdivisions (d), (e), and (f) of this section as these*  
15 *relate to special use airspace and urbanized areas shall not be*  
16 *required until the United States Department of Defense provides*  
17 *maps that identify military installations and special use airspace*  
18 *at a 1:400:000 scale.*

19 *(2) Within 30 days of receipt of the maps, the Office of Planning*  
20 *and Research shall notify cities, counties, and cities and counties*  
21 *of the availability of these maps as well as the availability of the*  
22 *descriptions of special use airspace on the Internet.*

23 *SEC. 6. No reimbursement is required by this act pursuant to*  
24 *Section 6 of Article XIII B of the California Constitution because*  
25 *a local agency or school district has the authority to levy service*  
26 *charges, fees, or assessments sufficient to pay for the program or*  
27 *level of service mandated by this act, within the meaning of Section*  
28 *17556 of the Government Code.*

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31 **All matter omitted in this version of the**  
32 **bill appears in the bill as amended in the**  
33 **Senate, April 26, 2004 (JR 11)**  
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